



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 2305-99

14 September 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) NPC ltr 5420 Pers 91 of 15 Aug 00
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy filed an application with this Board requesting, in effect, that his record be corrected to allow him to earn reserve retirement.

2. The Board, consisting of Mr. Chapman, Ms. Gilbert and Ms. Humberd, reviewed Petitioner's allegations of error and injustice on 6 September 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner's application was filed in a timely manner.

c. Petitioner reenlisted in the Naval Reserve on 20 February 1994 for six years. He was honorably discharged on 22 October 1996 for failure to maintain full mobilization readiness as evidenced by three weight control failures. At the time of his discharge he had completed over 17 years of qualifying service for reserve retirement.

d. At enclosure (1) is an advisory opinion from the Navy Personnel Command which states, in part, as follows:

... It is our opinion that the available documentation does not support an administrative separation for weight control failure in Petitioner's case. We can't confirm that he was afforded due process prior to his administrative separation. It is also our opinion that

based on current physical readiness policy it is unlikely that (he) would be processed for separation if his case were adjudicated today. Accordingly, we recommend the following:

a. Reverse his 22 Oct 96 discharge and credit his record with sufficient retirement points to (the) anniversary year ending 6 May 97 to ensure a qualifying year for retirement.

b. Authorize a 4 year extension to his six year enlistment contract of 20 Feb 94, resulting in a new End of Obligated Service of 19 Feb 04. This will allow (Petitioner) four years to earn two qualifying years for retirement and thereby earn a non-regular retirement with pay at age 60.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that the absence of documentation to show that he was offered the opportunity to present his case to an administrative discharge board. Given his many years of excellent service, the Board agrees with the recommendation contained in the advisory opinion.

Therefore, the record should be corrected to show that he was not discharged on 22 October 1996 but continued to serve on the six year reenlistment of 20 February 1994. In addition, he should be credited with sufficient nonpay retirement points to make the anniversary year ending 6 May 1997 qualifying for reserve retirement. Finally, the record should be further corrected to show that he extended the six year reenlistment of 20 February 1994 for a period of four years. This extension will make the expiration of his enlistment 19 February 2004 and will allow him the opportunity to earn two additional qualifying years and qualify for retired pay at age 60.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Naval Reserve.

RECOMMENDATION:

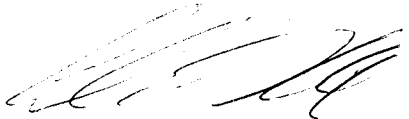
a. That Petitioner's naval record be corrected to show that he was not discharged on 22 October 1996 but continued to serve on the six year reenlistment of 20 February 1994. The record should be further corrected to show that he extended that enlistment for a period of four years.

b. That Petitioner's naval record be further corrected by crediting him with sufficient nonpay retirement points to make the anniversary year ending 6 May 1997 qualifying for reserve retirement.

c. That this Report of Proceedings be filed in Petitioner's naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



For W. DEAN PFEIFFER
Executive Director